

**SECTION XIII**  
**GROWTH MANAGEMENT**  
**AND**  
**INNOVATIVE LAND USE CONTROL**

**13.1 AUTHORITY**

The Section is enacted in accordance with RSA both 674:21 and 674:22.

**13.2 PURPOSES**

The purposes of this section of the Zoning Ordinance are as follows:

- (a) Promote the development of an economically sound and environmental stable community which considers and balances regional development needs.
- (b) Determine, monitor, evaluate, and establish a rate of residential growth in the Town that does not unreasonably interfere with the Town's capacity for planned, orderly, and reasonable expansion of its services to accommodate such growth.
- (c) Provide a temporary mechanism to allow for phased development of residential projects to manage the impact on municipal services.
- (d) Provide a temporary mechanism when municipal services are strained or overloaded to reduce the rate of residential growth to allow the Town time to correct any deficiencies that have developed.
- (e) Protect the health, safety, convenience, and general welfare of the Town's residents.

**13.3 FINDINGS**

The Town hereby finds that:

- (a) Between 1950 and 1990, the Town's population increased between 21.5 and 35 percent a decade, a rate significantly higher than Merrimack County.
- (b) Hopkinton's share of Merrimack County's population increased 2.9 percent in 1950 to 4.0 percent in 1990.
- (c) From 1980 to 1990, Hopkinton's population increased by 24.5 percent. In the same period, Hopkinton and its seven abutting towns increased their population by 26.7 percent, Merrimack County grew by 22.1 percent and the State grew by 20.5 percent.
- (d) From 1980 to 1990, the seven abutting towns grew by 26.9 percent and Hopkinton grew by 24.5 percent.
- (e) The 1990 US Census reported 1,759 year-round housing units, an increase of 26 percent from 1980.
- (f) From 1980 to 1990, Hopkinton and its seven abutting towns added 32.7 percent more housing units. Merrimack County and the State experienced a slightly lower percentage increase in housing units.
- (g) In 1980, Hopkinton's population per housing unit was 2.61 percent. In 1990, it was 2.5 percent. In Merrimack County, in 1980 the population per housing unit was 2.48 percent; it was 2.36 percent in 1990.
- (h) Based on building permits, the total housing units in Hopkinton in 1995 was 2,036, an increase of 5.8 percent since 1990. During the same time, Merrimack County experienced a 10.5 percent growth.

- (i) From 1978 through the writing of the 1987 Master Plan, the Town had a series of growth management ordinances which limited the amount of residential permits in order to plan and provide for the increased municipal services to accommodate the growth which occurred. In 1988, Hopkinton adopted a Growth Management and Innovative Land Use Control Ordinance.
- (j) The Office of State Planning projected Hopkinton's population for 1990 is projected to be 4,806 and Hopkinton's population for 2000 is projected to be 5,073. For the year 2010, it is projected to be 5,545.
- (k) The projected population increase between 1990 and 2000 is 6 percent and between 2000 and 2010 an increase of 8.6 percent.
- (l) The Office of State Planning estimated Hopkinton's population in 1996 was 4,935 a 2.68 percent increase from 1990. From 1990 to 1996, Hopkinton and the seven abutting towns were estimated to have grown by 5.5 percent, the County by 4.9 percent and the State by 4.76 percent.
- (m) Hopkinton's school enrollment for the 1989/90 school year was 851. For the 1997/98 school year, it was 1,006. The total increase was gradual and continuous 2.3% or 155 students over eight years.
- (n) In 1989/90 the Harold Martin Elementary School had an enrollment of 309 students in grades K-3. In 1997/98 the enrollment was 314. The enrollment dropped to 263 in 1992/93. The total increase of 86 students represents a 2.7 percent increase in student population. In 1988 the Harold Martin School had an addition to accommodate any previous class size or space concerns for the primary grade students.
- (o) In 1989/90 the Maple Street Elementary School had an enrollment of 206 students in grades 4-6. In 1997/98 the enrollment was 261. The enrollment has fluctuated over the eight years, the largest increase in 1991/92 of 29 students for a total of 261, and the largest decrease in 1992/93 of 17 students for a total of 245. The total increase of 2.6 percent has been variable.
- (p) In 1989/90 the Hopkinton Middle/High School had an enrollment of 336 in grades 7-12. In 1997/98 the enrollment was 417. The enrollment dropped to 326 in 1991/92. Each of the other eight years was continuous growth. The total increase of 81 students represents a 2.4 percent increase in population.
- (q) The Maple Street Elementary School and the Hopkinton Middle/High School each experienced space constraints, especially in the student services programs. The enrollment projections done by various consultants did not reach the actual student growth in attendance numbers.
- (r) The Maple Street School had needs for better library space, a music classroom, cafeteria, two additional classrooms, a computer lab, an art classroom and administrative space, as many of the student services for guidance, health and special education had consumed all available space. The entire facility also needed its heating and venting upgraded as well as a sprinkler system installed.
- (s) The Hopkinton Middle/High School also needed a complete upgrade of its heating and ventilation system and a sprinkler system installed. There was also need for a new gymnasium, as the current space was no longer adequate, a new kitchen and cafeteria, a better entrance to the site and the facility, the library/media center needed to be expanded to accommodate emerging technologies, better administrative areas, additional classrooms and an upgrade of public access to meeting space.
- (t) In 1997 the Town approved a school construction bond for these renovations and additions to the Maple Street Elementary and Hopkinton Middle/High Schools. The 7-8 grades have been separated from the 9-12 grades through redesign of the facility, and several of the Middle School classrooms have been enlarged.
- (u) Between 1986 and 1996, the school share of the property tax ranged between 75 and 82 percent.

- (v) Between 1986 and 1996, Hopkinton's full value tax rate ranged between \$16.52 and \$32.13 according to the Department of Revenue Administration. In 1995 and 1996, the full value tax rate was higher than Merrimack County's or the State. In general, for the past 10 years, the full value tax rate for Hopkinton and Merrimack County was higher than the State.
- (w) The full value tax rate of Hopkinton was 6 percent higher than the County and 26 percent higher than the State in 1996. In 1995, it was 5 percent higher than the County and 23 percent higher than the State.
- (x) The Contoocook Village Precinct is currently making annual payments on a \$1.1 million bond for the construction of a water filtration plant/pipeline replacement. The last payment is to occur in 2003.
- (y) The Town is currently making annual payments on an \$800,000 bond for the construction of the transfer station. The last payment is to occur in 2009.
- (z) In 1996, the Town authorized a \$1,980,000 bond for the closure of the landfill. Payment of the bond is expected to begin in 1998.
- (aa) In 1997, the Town authorized a bond of \$388,000 for the construction of an access road and site preparation for playing fields on Town-owned land (former Houston property). Payment of the bond is expected to begin in 1998.
- (ab) In 1997, the Town appropriated \$1.6 million for the construction of the library, and authorized a \$850,000 bond to be paid beginning in 1998.
- (ac) Future anticipated expenses for the Town include the construction of a new police station.

#### **13.4 INDICATORS OF GROWTH IMPACT**

The Town hereby determines that the presence of the following conditions constitutes an indicator of growth impact. An indicator of growth impact occurs when:

- (a) The average annual percent increase in building permits for dwelling units in Hopkinton for the past five years exceeds the same average of the combined seven abutting communities.
- (b) The most recently published average annual percent population growth for Hopkinton as reported by the New Hampshire Office of Energy and Planning exceeds the same average of the combined seven abutting communities.
- (c) The number of public school students enrolled or projected for the coming year for the combined schools in the Hopkinton School System exceeds 90 percent of its stated capacity as defined by the Hopkinton School Board.
- (d) The annual full value tax rate of Hopkinton as reported by the New Hampshire Department of Revenue Administration exceeds the average annual full value tax rate of the combined seven abutting communities or Merrimack County for the reporting year. (For comparison purposes, the tax rates will be equalized to full value.)
- (e) The number of dwelling units of all projects combined, for which approval is being sought from the Planning Board, at any time of reporting, if approved could result in conditions defined by a., b., c., or d. above.
- (f) The number of public school students enrolled or projected for the coming year for the combined schools in the Hopkinton School System exceeds 100 percent of its stated capacity as defined by the Hopkinton School Board.

- (g) The annual capital expenditures including debt service and capital outlay for combined municipal and school expenditures exceeds 20 percent of the total municipal and school department expenditures combined.

### **13.5 PLANNING BOARD MONITORING**

It is the responsibility of the Planning Board to monitor growth in the Town and report on the following:

**13.5.1 Annual Dwelling Unit Count:** The Planning Board will by February 15 of each year report on the total number of dwelling units existing at the end of its previous calendar year. Existing units mean all those units previously constructed and occupied plus those units constructed and for which certificates of occupancy were issued in the reporting year.

**13.5.2 Semi-Annual Reporting:** The Planning Board by July 20 and January 20 (of the next year) will report on the number of building permits and certificates of occupancy issued for the previous six months for all dwelling units. In the same report, the Planning Board shall report on the status, as appropriate, of any phasing requirements or permit limitations in force in the reporting period.

**13.5.3 Notice of Growth Impact:** The Planning Board may at any time issue a Notice of Growth Impact, if it has determined that any of the conditions in 13.4 exist. Said notice would include a statement of whether those conditions could result in either 13.6 Phasing or 13.7 Permit Limitations.

**13.5.4 Periodic Reporting:** The Planning Board may at any time it thinks it is appropriate or necessary, issue written reports on the status of growth activity in the Town covering such topics as the number of dwelling units or lots being proposed for approval, or for which building permits are being sought, the condition and capacity of any municipal or school facility, the tax burden existing or anticipated on the Town's residents and/or any other topic affecting or related to the growth or finances of the Town.

Pursuant to the monitoring in 13.5.1, 13.5.2, 13.5.3 or 13.5.4, the Planning Board shall make appropriate findings of fact, recommendations for action, or take actions provided for in Section XIII of the Zoning Ordinance as a result of its monitoring and reporting responsibilities.

### **13.6 PHASING OF DEVELOPMENTS**

If the Planning Board through its monitoring finds that indicator 13.4 a., b., c., d., or e. has occurred then the Planning Board may at its discretion issue a Notice of Growth Impact in conformance with 13.5.3 to the Board of Selectmen, the Building Inspector, and the general public by posting a notice in the Town Hall. The phasing of future residential developments, as provided in RSA 674:21, is to prevent a strain on municipal services and therefore, to provide for orderly growth in Town. Phasing may be implemented as provided below:

**13.6.1 Phasing Required:** The Planning Board may require the phasing of a development for a period up to five years for a project which is proposed to have 50 dwelling units (lots or less). The Planning Board may require a longer period of phasing based on the size of the project and the potential impact of the number of type of units on the municipal services of the Town. The Planning Board shall make appropriate finding of fact to substantiate the need for required phasing.

**13.6.2 Effect of Phasing:** Once a phasing plan has been approved by the Planning Board, the project shall not be affected by any permit limitations subsequently enacted under the provision of Section 13.8.4 of this Ordinance, provided that the developer secures permits for and begins substantial construction on the project on the units in each yearly phase. In the event that substantial construction is not undertaken in any yearly phase, then the vesting of that phase shall be forfeited and the developer shall be subject to any limitations imposed by 13.8.4. For the purpose of this section, substantial construction shall mean either (a) all dwelling units in that phase are constructed to a weather tight condition or (b) 50 percent of all dwelling units in that phase are completed and a Certificate of Occupancy has been issued.

### **13.7 LIMITING THE ISSUANCE OF PERMITS**

If the Planning Board finds through its monitoring that either a., b., c., d., or e., plus one or more of indicators f., or g. has occurred then the Planning Board may at its discretion issue a Notice of Growth Impact in conformance with 13.5.3 to the Board of Selectmen, the Building Inspector, and the general public by posting a notice in the Town Hall.

**13.7.1 Interim Permit Limitation:** Once a Notice of Growth Impact is issued, then no residential building permits shall be approved by the Building Inspector until after the hearing in Section 13.8 is held and until after the Planning Board has set the number of permits delineated 13.8. The Planning Board shall set the number of permits within 45 days of the Notice of Growth Impact being issued.

### **13.8 PROCEDURES FOR PHASING AND PERMIT LIMITATIONS**

Once a Notice of Growth Impact pursuant to 13.5.3 has been issued then the following procedures will be observed:

**13.8.1 Planning Board Findings:** The Planning Board will issue appropriate findings of fact to accompany any Notice of Growth Impact issued pursuant to 13.5.3.

**13.8.2 Public Hearing:** Prior to invoking 13.6 Phasing or 13.7 Permit Limitations, the Planning Board shall hold a public hearing with ten days notice to seek input from the general public.

**13.8.3 Determination of Action:** After public hearing in Section 13.8.2, the Planning Board shall deliberate and decide whether (a) phasing should be invoked, (b) permit limitations should be imposed, or (c) other appropriate action, and issue its decision(s). Any decision will be issued within 45 days of Notice of Growth Impact.

**13.8.4 Permit Limitations:** The following provisions shall apply:

- (a) The Planning Board as part of its decisions may specify what limitations are necessary in the issuance of permits for residential units up until and during any corrective action is taken by the Town and/or School district. In determining the number of permits to be issued, the Planning Board shall consider the severity of the municipal service burden, the amount of capacity remaining in the service, and the amount of time needed to correct the service problem. After determining those facts, the planning Board shall set the number of dwelling unit permits that can reasonably be issued on an annual basis.
- (b) After the public hearing, the Planning Board shall set the number of permits to be issued for the one year period following enactment of the limit or such other shorter period as may be desirable. At the end of the year or such other shorter period, the Planning Board shall hold a hearing to determine if the permit limitation should be removed or altered. After making findings of fact, the Planning Board may (a) extend the permit limitation, (b) alter the permit limitation, or (c) remove the permit limitation.

**13.8.5 Phasing:** The Planning Board as part of its decision may require phasing in accordance with the provisions of Phasing 13.6.

**13.8.6 Equitable Distribution:** In order to insure equitable distribution of available permits, no individual, partnership, corporation, or other entity or its related or affiliated entities or in the case of individuals their relatives or persons associated in business, may receive more than 10 percent of the permits or permits for eight units, whichever is less, available during the limitation period.

- (a) The Building Inspector shall consult with the Planning Board, and the Planning Board shall devise an administrative procedure necessary to insure equitable distribution of available dwelling unit permits under guidelines expressed above.

- (b) No application for a building permit will be accepted from any person, who in an attempt to avoid the building permit limitations of this Ordinance, has failed to pay fair consideration as defined by RSA 545:3 or any other person or entity who has the purpose of evasion of the limitations of Section 13 of this Ordinance.

### **13.9 SUNSET**

This Ordinance shall expire at the Annual Town Meeting in 2011 unless re-adopted at that meeting. The Planning Board shall make recommendations as to the necessity and desirability of re-adopting this Ordinance prior to said Annual Town Meeting.